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July 6, 2020

The Honorable Sarah Netburn  
United States Magistrate Judge  
U.S. District Court for the Southern  
District of New York  
Thurgood Marshall Courthouse  
40 Foley Square  
New York, NY 10007

**Re: The Phillies v. Harrison/Erickson, Inc., et al., C.A. No. 19-7239-VM-SN**

Dear Judge Netburn:

Pursuant to Your Honor's direction that the parties "supplement[]" their respective positions" on the letter to be sent to the Copyright Office under 17 U.S.C. § 411(b) (ECF No. 90), the parties submit this joint letter.

On July 1, 2020, Defendants served Supplemental Initial Disclosures that, for the first time, identified Robert Osterberg as an individual who may have discoverable information that Defendants will use to support their claims or defenses. As both sides have known since before this lawsuit, Mr. Osterberg was the Defendants' attorney during a 1979 copyright litigation with The Phillies, and his law firm prosecuted the Defendants' copyright registration for the Phillie Phanatic that is the subject of The Phillies' Section 411 claim in this case. The parties agree that The Phillies are entitled to depose Mr. Osterberg, and are currently working to schedule that deposition.

Mr. Osterberg's testimony may affect the parties' positions on the letter to be sent by the Court to the Copyright Office. Accordingly, the parties jointly request that the Court await the outcome of that deposition prior to sending the letter to the Copyright Office. The parties further propose that they will confer and supplement their respective positions in a submission to the Court within two business days of Mr. Osterberg's deposition.

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The Honorable Sarah Netburn  
July 6, 2020  
Page 2

Respectfully,

*/s/David J. Wolfsohn*


David J. Wolfsohn

DJW/

cc: Paul D. Montclare, Esq. (by ECF)  
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Elaine Nguyen, Esq. (by ECF)  
J. Matthew Williams, Esq. (by ECF)  
Tyler Marandola, Esq. (by ECF)

The parties shall supplement their positions on the information to be included in a letter to the U.S. Copyright Office by no later than July 22, 2020.

**SO ORDERED.**

  
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SARAH NETBURN  
United States Magistrate Judge

Dated: July 9, 2020  
New York, New York